

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Patricia Paul (“Paul” or “Respondent”) was a member of the Stanislaus County Board of Supervisors for approximately 14 years, including calendar year 2002. She no longer serves as a board member. This case arose from Respondent Paul’s written request for advice dated September 17, 2003, to the Fair Political Practices Commission (“FPPC”), in which she briefly detailed her activities in connection with a trip she had taken with Stanislaus County Deputy Executive Officer W. Richard Jantz to tour the Panoz Motor Sports Plant at the Atlanta Motor Speedway from March 29, 2002 through April 2, 2002. The purpose of the trip was to gather information on the motor sports industry and its economic development impact, as County officials were exploring the possibility of developing a similar attraction for their area. Ultimately, there were only general discussions about a potential location, and no governmental decisions came before the board of supervisors regarding a motor sports project.

In her letter, Respondent Paul stated that Donald Panoz, their host and founder of the Panoz Motor Sports Group, had arranged for an unexpected trip, via his private airplane, to the Panoz Sebring International Raceway in Sebring, Florida, in addition to the tour of the Motor Sports Plant in Atlanta, Georgia. Mr. Panoz was also a developer who did business in Stanislaus County. Respondent Paul did not mention in her letter that she had accepted a complimentary spa treatment at the Inn at Chateau Elan in Braselton, a town north of Atlanta, Georgia, from Mr. Panoz as well.<sup>1</sup> Respondent Paul had not disclosed the receipt of any gifts on her 2002 annual SEI, and she asked whether or not she had violated the Political Reform Act. (“Act”)<sup>2</sup>

The Act requires a public official who files a statement of economic interests pursuant to section 87203 to report gifts with a value of \$50 or more from a single source. In 2002, such public officials were prohibited from accepting gifts with values aggregating more than \$320 from a single source in the calendar year. In this matter, Respondent Paul failed to disclose two gifts from Mr. Panoz on her 2002 annual SEI. The total value of these gifts, when aggregated, was approximately \$483, which exceeded the annual gift limit by \$163.

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<sup>1</sup> Respondent Paul and Mr. Jantz stayed at the Inn at Chateau Elan in Braselton, Georgia, which was owned by Mr. Panoz, while they were touring the Atlanta Motor Speedway.

<sup>2</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

For purposes of this stipulation, Respondent's violations of the Act are stated as follows:

COUNT 1: On or about and between April 1, 2002, and April 4, 2002, as a member of the Stanislaus County Board of Supervisors, Respondent Patricia Paul accepted two gifts from Donald Panoz, in the form of a flight on a private plane and a spa treatment at the Inn at Chateau Elan in Braselton, Georgia, which value when aggregated exceeded the 2002 annual gift limit of \$320, in violation of section 89503, subdivision (a).

COUNT 2: As a member of the Stanislaus County Board of Supervisors, Respondent Patricia Paul failed to timely disclose two gifts received in 2002 from Donald Panoz in the form of a flight on his private plane and a spa treatment at the Inn at Chateau Elan in Braselton, Georgia, on her 2002 annual statement of economic interests, filed on or about March 31, 2003, in violation of section 87207, subdivision (a).

## **SUMMARY OF THE LAW**

### **Duty to Disclose Economic Interests**

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87200 specifies that the requirements to disclose economic interests apply to members of the board of supervisors. Under section 87202, a member of the board of supervisors must file an SEI within 30 days of assuming office. Under section 87203 a member of the board of supervisors must file an annual SEI for each year that he or she holds office. The deadline for filing an annual SEI is April 1 each year, or the next business day thereafter if April 1 falls on a Saturday, Sunday, or official holiday. (Regulations 18116 and 18723, subd. (b).) Under section 87204, a member of the board of supervisors whose term has ended must file a SEI within 30 days of leaving office.

On an SEI, members of the board of supervisors are required to disclose their investments, interests in real property, and income held or received during the period covered by the statement. (Sections 87201, 87202, subd. (a), 87203 and 87204.) The term "income" includes gifts. (Section 82030, subd. (a).) When income is required to be reported on an SEI, section 87207, subdivision (a)(1) provides that the statement must contain the name, address, and business activity of each source of income aggregating \$500 or more, and each source of a gift or gifts aggregating \$50 or more in value.

## **Prohibition Against Accepting Excessive Gifts**

Section 89503, subdivision (a) prohibits members of the board of supervisors from accepting a gift or gifts with a total fair market value of more than \$250 from any single source in any calendar year. The gift limit in section 89503 adjusts biennially to reflect changes in the Consumer Price Index. (Section 89503, subd. (f).) The annual gift limit for January 1, 2001 through December 31, 2002 was \$320. (See Regulation 18940.2.)

Section 82028 defines a “gift” as “any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.” The term gift does not include informational material. (Section 82028, subd. (b).) The definition of “informational material” includes on-site demonstrations, tours, or inspections designed specifically for the purpose of assisting the recipient public officials or candidates in the performance of either their official duties or of the elective office they seek. (Regulation 18942.1, subd. (c).) No payment for transportation to an inspection, tour, or demonstration site, nor reimbursement for any expenses in connection therewith, shall be deemed “informational material,” unless such transportation is not commercially obtainable. (Regulation 18942.1, subd. (c).)

Regulation 18946 provides that “gifts shall be valued at fair market value as of the date of receipt or promise.” Regulation 18941, subdivision (a) states that “a gift is ‘received’ or ‘accepted’ when the recipient knows that he or she has either actual possession of the gift or takes any action exercising direction or control over the gift.”

## **SUMMARY OF THE FACTS**

### **COUNT 1**

#### **Failure to Abide by the Gift Limit**

As a member of the Stanislaus County Board of Supervisors, in 2002, Respondent Patricia Paul was prohibited from accepting any gift or gifts from a single source with a fair market value of more than \$320. However, Respondent Paul accepted two gifts from Donald Panoz in calendar year 2002, with a total value of approximately \$483.

The following table details the gifts Respondent Paul accepted from Mr. Panoz in calendar year 2002:<sup>3</sup>

Date	Description	Value
April 1, 2002	Roundtrip Flight from Atlanta, Georgia to Sebring, Florida on Mr. Panoz's Private Plane	\$ 287 <sup>4</sup>
April 4, 2002	Spa treatment at the Inn at Chateau Elan in Braselton, Georgia	196
	<b>Total</b>	<b>\$ 483</b>

By accepting gifts from Donald Panoz in calendar year 2002, with a total value of more than the \$320 annual gift limit, Respondent Paul violated section 89503, subdivision (c).

#### COUNT 2

#### **Failure to Disclose Gifts of \$50 or More from a Single Source**

As a member of the Stanislaus County Board of Supervisors, Respondent Paul had a duty to disclose the receipt of income in the form of gifts aggregating \$50 or more in value from a single source for the reporting period in which the gift was received.

In April 2002, Respondent received a complimentary spa treatment at the Inn at Chateau Elan in Braselton, Georgia from Mr. Panoz, and a roundtrip flight on his private plane from Atlanta to Sebring, Florida. The value of the gifts was approximately \$483. However, Respondent did not disclose any gifts on her 2002 annual SEI.

After a Modesto Bee newspaper article came out on September 14, 2003, reporting the possible violations, Respondent Paul requested advice from the FPPC on September 17, 2003, asking whether she violated the Act by flying to Sebring on Mr. Panoz's private plane. Respondent amended her 2002 annual SEI on September 19, 2003, to disclose the spa treatment. Respondent stated that upon receipt of this gift she made a mental note to herself to disclose it on her SEI, but she forgot when the time came to complete the form. The FPPC issued the *Paul* Advice Letter, No. I-03-218 on October 21, 2003, in which we advised Respondent that she must amend her SEI if the value of the plane trip, when aggregated with any other gifts from Mr. Panoz received in 2002 equaled \$50 or more. On October 29, 2003, Respondent filed another amendment to her 2002 annual SEI disclosing the flight on Mr. Panoz's private plane.

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<sup>3</sup> The receipt dates and values of the gifts are as reported on the amendments to Respondent Paul's 2002 annual SEI's filed September 19, 2003, and October 29, 2003.

<sup>4</sup> The fair market value of this flight provided by Respondent Paul was based on commercial rates available at the time. Privately chartered flight rates may have been substantially higher.

By failing to timely disclose on her 2002 annual SEI the receipt of two gifts totaling \$50 or more in value received from Donald Panoz in calendar year 2002, Respondent Paul violated section 87207, subdivision (a).

## **CONCLUSION**

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of Ten Thousand Dollars (\$10,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the Respondent, upon learning of the violations, voluntarily filed appropriate amendments to provide full disclosure.

Regarding Count 1, accepting a gift in excess of the legal gift limit is one of the more serious violations of the Act, and penalties in the high end of the available range have typically been imposed. Here, the public did not have access to information that Respondent Paul accepted a spa treatment and private flight from Mr. Panoz, a developer who was likely to come before the board of supervisors regarding decisions involving the development of the motor sports facility in Stanislaus County. Respondent Paul had been a member of the board of supervisors for 14 years, and should have known what constitutes a gift and about the gift limits. In mitigation, the violation does not appear to be the result of deliberate conduct intended to evade the gift limit. Additionally, Respondent voluntarily contacted the FPPC to determine whether she had violated the Act. Therefore, imposing a very substantial administrative penalty of \$3,000, is appropriate for this violation.

Regarding Count 2, failure to disclose an economic interest is a serious violation of the Act, as it denies the public information regarding the official's financial dealings and whether a conflict of interest may be present. Historically, the typical penalty for not disclosing an economic interest on an SEI has been in the mid to mid-to-high range, depending on the circumstances. In this case, the public did not have access to information regarding Respondent's source of income, who was likely to come before the board of supervisors regarding decisions involving the development of a motor sports facility in Stanislaus County. Respondent should have known, or at least inquired, whether the gifts she received from Mr. Panoz were required to be reported before she completed her SEI. In mitigation, once she became aware that she had possibly committed a violation Respondent Paul sought advice from the FPPC and amended her 2002 annual SEI to disclose the receipt of the gifts. Therefore, imposition of an administrative penalty of \$3,500 is appropriate for this violation.

Accordingly, the facts of this case justify imposition of a total administrative penalty of Six Thousand Five Hundred Dollars (\$6,500).